

SENATE BILL 365

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

In 1989 the Legislature merged three separate criminal justice agencies into one agency creating the Texas Department of Criminal Justice (TDCJ) with a single board established to oversee the new integrated agency. At that time, the former agencies became statutory divisions within TDCJ: the Texas Department of Corrections became the Institutional Division; the Texas Adult Probation Commission became the Community Justice Assistance Division; and parole supervision functions of the Board of Pardons and Paroles became the Board of Pardons and Paroles Division (later changed to the Parole Division). In 1993, the Legislature created the state jail system to offer rehabilitation programs to nonviolent offenders in community-based facilities, in turn allowing confinement of violent offenders for longer periods of time in state prisons and reducing the backlog of county jail inmates awaiting transfer to state prisons. The Legislature created a statutory State Jail Division to manage the new system and separate nonviolent state jail confines from Institutional Division inmates.

The scope of responsibility of the Texas Department of Criminal Justice includes the oversight of probation departments, the incarceration of offenders, and the supervision of persons released from incarceration prior to the end of their sentence. Specifically, TDCJ distributes state funds to Community Supervision and Correction Departments that provide local probation services to individuals released from custody prior to completing of their sentence. Further responsibilities include the construction and operation of prisons, state jails, substance abuse centers, and other confinement facilities for Texas felony offenders. Although the department does not make parole decisions, it is responsible for the mandatory supervision of any individual released on the recommendation of the Board of Pardons and Paroles.

Senate Bill 365 continues the Department for 12 years and makes several changes to its governing statute, as well as the statutes governing the Private Sector Prison Industries Oversight Authority and the Texas Council on Offenders with Mental Impairments. Recommendations of the Texas Sunset Commission will allow the agency to reorganize the divisional structure and improve its coordination with parole and probation authorities,

thereby helping the Department to function better as a unified criminal justice agency. Included in the bill are recommendations revising funding sources for probation departments to improve their ability to use funds for the benefit of the state as well as recommendations to improve oversight and operational aspects for both the Department and private sector prison industries programs. Improvements were also made in the record keeping of offenders in job training and work programs which improve their ability to get jobs upon release, thereby reducing recidivism. Finally, the bill adds provisions by the Legislature for civilly committing persons identified as sexually violent predators upon completion of their sentences or release from a facility of the Texas Department of Mental Health and Mental Retardation.²

² Ibid

Enrolled

ENROLLED

76th - '99

S.B. No. 365

AN ACT

1 relating to the continuation and the functions of the Texas
2 Department of Criminal Justice, the administration of the Private
3 Sector Prison Industries Oversight Authority, the administration of
4 the Texas Council on Offenders with Mental Impairments, and the
5 civil commitment of sexually violent predators.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 ARTICLE 1

8 SECTION 1.01. Section 492.003, Government Code, is amended
9 to read as follows:

10 Sec. 492.003. ELIGIBILITY FOR MEMBERSHIP; REMOVAL.

11 (a) Each member of the board must be representative of the general
12 public. A person is not eligible for appointment as member if the
13 person or the person's spouse:

14 (1) is a person, other than a judge participating in
15 the management of a community supervision and corrections
16 department, who is employed by or participates in the management of
17 a business entity or other organization regulated by the department
18 or receiving funds from the department;

19 (2) owns, or controls directly or indirectly, more
20 than a 10 percent interest in a business entity or other
21 organization regulated by the department or receiving funds from
22 the department; or

23 (3) uses or receives a substantial amount of tangible
24 goods, services, or funds from the department, other than

1 compensation or reimbursement authorized by law for board
2 membership, attendance, or expenses.

3 (b) ~~In [An employee or paid officer or consultant of a trade~~
4 ~~association in the field of criminal justice may not be a member or~~
5 ~~employee of the board. A person who is the spouse of any employee~~
6 ~~or paid consultant of a trade association in the field of criminal~~
7 ~~justice may not be a member of the board and may not be an~~
8 ~~employee, including an employee exempt from the state's~~
9 ~~classification plan, who is compensated at or above the amount~~
10 ~~prescribed by the General Appropriations Act for step 17 salary~~
11 ~~group 17, of the position classification salary schedule. For the~~
12 ~~purposes of] this section, "Texas trade association" means a [trade~~
13 ~~association is a nonprofit,] cooperative[7] and voluntarily joined~~
14 ~~association of business or professional competitors in this state~~
15 ~~designed to assist its members and its industry or profession in~~
16 ~~dealing with mutual business or professional problems and in~~
17 ~~promoting their common interests.~~

18 (c) A person may not be a member of the board and may not be
19 a department employee employed in a "bona fide executive,
20 administrative, or professional capacity," as that phrase is used
21 for purposes of establishing an exemption to the overtime
22 provisions of the federal Fair Labor Standards Act of 1938 (29
23 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

24 (1) the person is an officer, employee, or paid
25 consultant of a Texas trade association in the field of criminal
26 justice; or

1 (2) the person's spouse is an officer, manager, or
2 paid consultant of a Texas trade association in the field of
3 criminal justice.

4 (d) A person who is required to register as a lobbyist under
5 Chapter 305 because [by-virtue] of the person's activities for
6 compensation in or on behalf of a profession related to the
7 operation of the board[7] may not serve as a member of the board or
8 act as the general counsel to the board or the department.

9 (e) [~~d~~] Appointments to the board shall be made without
10 regard to the race, color, disability [handicap], sex, religion,
11 age, or national origin of the appointees.

12 (f) [~~e~~] It is a ground for removal from the board if a
13 member:

14 (1) does not have at the time of taking office
15 [appointment] the qualifications required by Subsection (a) for
16 appointment to the board;

17 (2) does not maintain during the member's service on
18 the board the qualifications required by Subsection (a) for
19 appointment to the board;

20 (3) is ineligible for membership under Subsection (c)
21 or (d) [violates-a-prohibition-established-by--Subsection--(b)--or
22 (e)];

23 (4) is unable to discharge the member's duties for a
24 substantial part of the term for which the member was appointed
25 because of illness or disability; or

26 (5) is absent from more than half of the regularly

1 scheduled board meetings that the member is eligible to attend
2 during each calendar year or is absent from more than two
3 consecutive regularly scheduled board meetings that the member is
4 eligible to attend, except when the absence is excused by majority
5 vote of the board.

6 (g) [~~f~~] The validity of an action of the board is not
7 affected by the fact that it was taken when a ground for removal of
8 a member of the board existed.

9 (h) [~~g~~] If the executive director has knowledge that a
10 potential ground for removal exists, the director shall notify the
11 chairman of the board of the ground. The chairman shall then
12 notify the governor and the attorney general that a potential
13 ground for removal exists. If the potential ground for removal
14 involves the chairman, the executive director shall notify the next
15 highest ranking officer of the board, who shall then notify the
16 governor and the attorney general that a potential ground for
17 removal exists.

18 SECTION 1.02. Chapter 492, Government Code, is amended by
19 adding Section 492.0031 to read as follows:

20 Sec. 492.0031. TRAINING PROGRAM FOR MEMBERS. (a) A person
21 who is appointed to and qualifies for office as a member of the
22 board may not vote, deliberate, or be counted as a member in
23 attendance at a meeting of the board until the person completes a
24 training program that complies with this section.

25 (b) The training program must provide the person with
26 information regarding:

- 1 (1) the legislation that created the department and
2 the board;
- 3 (2) the programs operated by the department;
- 4 (3) the role and functions of the department;
- 5 (4) the rules of the department, with an emphasis on
6 the rules that relate to disciplinary and investigatory authority;
- 7 (5) the current budget for the department;
- 8 (6) the results of the most recent formal audit of the
9 department;
- 10 (7) the requirements of:
 - 11 (A) the open meetings law, Chapter 551;
 - 12 (B) the public information law, Chapter 552;
 - 13 (C) the administrative procedure law, Chapter
14 2001; and
 - 15 (D) other laws relating to public officials,
16 including conflict of interest laws; and
- 17 (8) any applicable ethics policies adopted by the
18 department or the Texas Ethics Commission.

19 (c) A person appointed to the board is entitled to
20 reimbursement, as provided by the General Appropriations Act, for
21 the travel expenses incurred in attending the training program
22 regardless of whether the attendance at the program occurs before
23 or after the person qualifies for office.

24 SECTION 1.03. Section 492.004, Government Code, is amended
25 to read as follows:

26 Sec. 492.004. NOTICE OF QUALIFICATIONS, RESPONSIBILITIES.

1 The executive director or the executive director's designee shall
 2 provide to members of the board and to agency employees, [board
 3 shall-inform-its-members] as often as necessary, information
 4 regarding requirements for office or employment under this
 5 subtitle, including information regarding a person's [ef-

6 [~~(1)~~--the-qualifications-for-office-prescribed-by--this
 7 chapter;--and

8 [~~(2)~~--their] responsibilities under applicable law
 9 relating to standards of conduct for state officers or employees.

10 SECTION 1.04. Section 492.006, Government Code, is amended
 11 to read as follows:

12 Sec. 492.006. BOARD MEETINGS. (a) The board shall meet at
 13 least once in each quarter of the calendar year at a site
 14 determined by the chairman. [~~The--chairman--shall--provide--the~~
 15 ~~chairman--of--the--Legislative--Criminal--Justice--Board--with--notice--of~~
 16 ~~the---board's---regularly---scheduled---meetings---and---facilitate---the~~
 17 ~~attendance---of---the---Legislative--Criminal--Justice--Board--at--the~~
 18 ~~regularly-scheduled-meetings-]~~

19 (b) The board may meet at other times at the call of the
 20 chairman or as provided by the rules of the board.

21 (c) At each regularly scheduled meeting of the board, the
 22 board shall allow:

23 (1) the presiding officer of the Board of Pardons and
 24 Paroles or a designee of the presiding officer to present to the
 25 board any item relating to the operation of the parole system
 26 determined by the presiding officer to require the board's

1 consideration; and

2 (2) the chairman of the judicial advisory council to
3 the community justice assistance division and to the board to
4 present to the board any item relating to the operation of the
5 community justice system determined by the chairman to require the
6 board's consideration.

7 SECTION 1.05. Section 492.012, Government Code, is amended
8 to read as follows:

9 Sec. 492.012. SUNSET PROVISION. The Texas Board of Criminal
10 Justice and the Texas Department of Criminal Justice are subject to
11 Chapter 325 (Texas Sunset Act). Unless continued in existence as
12 provided by that chapter, the board and the department are
13 abolished September 1, 2011 [~~1999~~].

14 SECTION 1.06. Section 492.013, Government Code, is amended
15 to read as follows:

16 Sec. 492.013. GENERAL POWERS AND DUTIES OF BOARD. (a) The
17 board may adopt rules as necessary for its own procedures and for
18 operation of the department.

19 (b) The board shall employ an executive director. The board
20 shall supervise the executive director's administration of the
21 department.

22 (c) The board shall approve the operating budget of the
23 department and the department's request for appropriations.

24 (d) The board shall appoint the members of any advisory
25 committees to the department.

26 (e) [~~The board shall provide to the employees of the~~

1 ~~department, as often as is necessary, information regarding their~~
2 ~~qualifications for employment and their responsibilities under~~
3 ~~applicable laws relating to standards of conduct for state~~
4 ~~employees.~~

5 [(f)] The board shall develop and implement policies that
6 clearly separate the policymaking [define---the---respective]
7 responsibilities of the board and the management responsibilities
8 of the executive director and the staff of the department.

9 (f) [(g)] The board may apply for and accept gifts or grants
10 from any public or private source for use in maintaining and
11 improving correctional programs and services.

12 SECTION 1.07. Chapter 492, Government Code, is amended by
13 adding Section 492.0131 to read as follows:

14 Sec. 492.0131. PAROLE RULES, POLICIES, PROCEDURES. The
15 board and the Board of Pardons and Paroles Policy Board shall
16 jointly review all rules, policies, and procedures of the
17 department and the Board of Pardons and Paroles that relate to or
18 affect the operation of the parole process. The board and the
19 policy board shall identify areas of inconsistency between the
20 department and the Board of Pardons and Paroles and shall amend
21 rules or change policies and procedures as necessary for consistent
22 operation of the parole process.

23 SECTION 1.08. Section 493.001, Government Code, is amended
24 to read as follows:

25 Sec. 493.001. DEPARTMENT MISSION. The mission of the
26 department is to provide public safety, promote positive change in

1 offender behavior, [and] reintegrate offenders into society, and
2 assist victims of crime.

3 SECTION 1.09. Chapter 493, Government Code, is amended by
4 adding Section 493.0021 to read as follows:

5 Sec. 493.0021. ORGANIZATIONAL FLEXIBILITY. (a)

6 Notwithstanding Sections 493.002, 493.003, 493.004, 493.005,
7 493.0051, 493.0052, as added by Chapter 1360, Acts of the 75th
8 Legislature, Regular Session, 1997, and 493.0052, as added by
9 Chapter 490, Acts of the 75th Legislature, Regular Session, 1997,
10 the executive director, with the approval of the board, may:

11 (1) create divisions in addition to those listed in
12 Section 493.002 and assign to the newly created divisions any
13 duties and powers imposed on or granted to an existing division or
14 to the department generally;

15 (2) eliminate any division listed in Section 493.002
16 or created under this section and assign any duties or powers
17 previously assigned to the eliminated division to another division
18 listed in Section 493.002 or created under this section; or

19 (3) eliminate all divisions listed in Section 493.002
20 or created under this section and reorganize the distribution of
21 powers and duties granted to or imposed on a division in any manner
22 the executive director determines is best for the proper
23 administration of the department.

24 (b) The executive director may not take an action under this
25 section with potential impact on the administration of community
26 corrections programs by community supervision and corrections

1 departments without requesting and considering comments from the
2 judicial advisory council to the community justice assistance
3 division of the Texas Department of Criminal Justice and the Texas
4 Board of Criminal Justice as to the effect of the proposed action.

5 SECTION 1.10. Section 493.007, Government Code, is amended
6 to read as follows:

7 Sec. 493.007. PERSONNEL. (a) [~~Each division director shall~~
8 ~~hire the employees for the director's division.~~

9 [(b)] The executive director shall develop an intraagency
10 career ladder program. The program shall require intraagency
11 postings of all nonentry level positions concurrently with any
12 public postings.

13 (b) [(c)] The executive director shall develop a system of
14 annual performance evaluations. All merit pay for department
15 employees must be based on the system established under this
16 subsection.

17 (c) [(d)] The executive director or the executive director's
18 designee shall prepare and maintain a written policy statement that
19 implements [~~to assure implementation of~~] a program of equal
20 employment opportunity to ensure that [~~under which~~] all personnel
21 decisions [~~transactions~~] are made without regard to race, color,
22 disability [~~handicap~~], sex, religion, age, or national origin. The
23 policy statement must include:

24 (1) personnel policies, including policies related to
25 recruitment, evaluation, selection, [~~appointment~~] training, and
26 promotion of personnel that show the intent of the department to

1 avoid the unlawful employment practices described by Chapter 21,
2 Labor Code; and

3 (2) an [a-comprehensive] analysis of the extent to
4 which the composition of the department's personnel is in
5 accordance with state and federal law and [department--work--force
6 that-meets-federal-and-state-guidelines;

7 [~~3~~]-procedures--by--which-a-determination-can-be-made
8 of-significant-underutilization-in-the-department-work-force-of-all
9 persons-for-whom-federal--or--state--guidelines--encourage--a-more
10 equitable-balance--and

11 [(4)] reasonable methods to achieve compliance with
12 state and federal law [appropriately--address--those--areas--of
13 significant-underutilization].

14 (d) [(e)] A policy statement [prepared-under-Subsection-(d)]
15 must:

16 (1) [cover-an-annual--period] be updated at least
17 annually;

18 (2) be reviewed by the state Commission on Human
19 Rights for compliance with Subsection (c)(1);[7] and

20 (3) be filed with the governor's office.

21 [~~f~~]-The-governor's-office-shall-deliver-a--biennial--report
22 to--the--legislature--based--on--the--information--received--under
23 Subsection-(e).--The-report-may-be-made-separately-or-as-a-part--of
24 other-biennial-reports-made-to-the-legislature.]

25 SECTION 1.11. Section 493.016, Government Code, is amended
26 to read as follows:

1 Sec. 493.016. INFORMATION OF PUBLIC INTEREST; COMPLAINTS.

2 (a) The department shall prepare information of public interest
3 describing the functions of the department and the procedures by
4 which complaints are filed with and resolved by the department.
5 The department shall make the information available to the general
6 public and appropriate state agencies.

7 (b) The department shall establish methods by which
8 interested persons are notified of the name, mailing address, and
9 telephone number of the department for the purpose of directing
10 complaints to the department.

11 (c) The department shall keep an information file on [about]
12 each written complaint filed with the department by a member of the
13 general public that relates to the operations of the department.
14 The file must include:

15 (1) the name of the person who filed the complaint;

16 (2) the date the complaint is received by the
17 department;

18 (3) the subject matter of the complaint;

19 (4) the name of each person contacted in relation to
20 the complaint;

21 (5) a summary of the results of the review or
22 investigation of the complaint; and

23 (6) an explanation of the reason the file was closed,
24 if the agency closed the file without taking action other than to
25 investigate the complaint.

26 (d) The department shall provide a written copy of the

1 department's policies and procedures relating to complaint
2 investigation and resolution to:

3 (1) all department employees; and

4 (2) each person filing a complaint.

5 (e) The [If a written complaint is filed with the department
6 by a member of the general public that relates to the operations of
7 the department,--the] department, at least [as--frequently--as]
8 quarterly [and] until final disposition of the complaint, shall
9 notify the person filing the complaint [complainant] of the status
10 of the investigation [complaint] unless the notice would jeopardize
11 an undercover investigation.

12 SECTION 1.12. Chapter 493, Government Code, is amended by
13 adding Section 493.023 to read as follows:

14 Sec. 493.023. CHARITABLE FUND-RAISING. (a) Under policies
15 established by the department, a department employee may
16 participate in fund-raising activities conducted on department
17 property on the employee's own time for the benefit of an eligible
18 charitable organization. The department shall adopt policies under
19 this section which address:

20 (1) minimum qualifications of eligible charitable
21 organizations;

22 (2) limitations on the use of funds;

23 (3) handling and distribution of the proceeds of
24 fund-raising activity to eligible charitable organizations located
25 in the county where the fund-raising takes place; and

26 (4) ensuring that participation in fund-raising is

1 voluntary and not coercive.

2 (b) Funds collected under this section are not subject to
3 Section 404.094.

4 (c) This section does not affect the department's
5 participation in the state employees charitable campaign under
6 Subchapter H, Chapter 659.

7 SECTION 1.13. Section 495.007, Government Code, is amended
8 to read as follows:

9 Sec. 495.007. LIMITATION. The board may not enter into
10 contracts under this subchapter for more than 4,580 [~~47,000~~] beds.

11 SECTION 1.14. Subdivision (2), Subsection (b), Section
12 497.001, Government Code, is amended to read as follows:

13 (2) "Articles and products" includes [~~include~~]
14 services provided through the use of work program participant
15 [~~inmate~~] labor.

16 SECTION 1.15. Subsection (b), Section 497.001, Government
17 Code, is amended by adding Subdivision (3) to read as follows:

18 (3) "Work program participant" means a person who:

19 (A) is an inmate confined in a facility operated
20 by or under contract with the department or a defendant or releasee
21 housed in a facility operated by or under contract with the
22 department; and

23 (B) works at a job assigned by the office.

24 SECTION 1.16. Subsection (a), Section 497.002, Government
25 Code, is amended to read as follows:

26 (a) The purposes of the office are to implement this

1 subchapter and Subchapter B to:

2 (1) provide work program participants with marketable
 3 job skills to help reduce recidivism through a coordinated program
 4 of:

5 (A) job skills training;

6 (B) documentation of work history; and

7 (C) access to resources provided by Project RIO
 8 and the Texas Workforce Commission, including access to resources
 9 provided through assistance to local workforce development boards
 10 in referring work program participants to the Project RIO
 11 employment referral services provided under Section 306.002, Labor
 12 Code; and [adequate, regular, and suitable employment for the
 13 vocational training and rehabilitation of inmates, consistent with
 14 proper correctional purposes;]

15 (2) reduce department costs by providing products and
 16 articles for the department and providing [use the labor of inmates
 17 for self-maintenance;

18 [~~3~~] ~~reimburse the state for expenses caused by the~~
 19 ~~crimes of inmates and the cost of their imprisonment;~~

20 [~~4~~] ~~provide for the requisition and disbursement of~~
 21 ~~department articles and products through established state~~
 22 ~~authorities to eliminate the possibility of unlawful private profit~~
 23 ~~from the distribution of those articles and products;~~

24 [~~5~~] ~~provide materials,~~ products~~,~~ or articles for
 25 sale on a for-profit basis to the public~~,~~ to private enterprises~~,~~
 26 or to agencies of the state or political subdivisions of the

1 state[7--and

2 [~~(6)~~--develop--and--expand--public--and--private--prison
3 industry--operations].

4 SECTION 1.17. Subsection (c), Section 497.003, Government
5 Code, is amended to read as follows:

6 (c) The prison industries advisory committee shall advise
7 the board on all aspects of prison industry operations[7] and shall
8 make recommendations to the board on the effective use of prison
9 industries programs to assist work program participants [inmates]
10 in the development of job skills necessary for successful
11 reintegration into the community after release from imprisonment.

12 SECTION 1.18. Section 497.004, Government Code, is amended
13 to read as follows:

14 Sec. 497.004. [INMATE] LABOR, PAY. (a) [~~The--department~~
15 ~~shall--use--inmate--labor--in--prison--industries--to--the--greatest--extent~~
16 ~~feasible--and--shall--develop--and--expand--prison--industries--by--pursuing~~
17 ~~arrangements--with--business--for--the--use--of--inmate--labor.~~

18 [(b)] The board may develop by rule and the department may
19 administer an incentive pay scale for work program participants
20 consistent with rules adopted by the Private Sector Prison
21 Industries Oversight Authority under Subchapter C [inmates-who
22 participate--in--prison--industries]. Prison industries may be
23 financed through contributions donated for this purpose by private
24 businesses contracting with the department. The department shall
25 apportion pay earned by a work program participant [an--inmate] in
26 the same manner as is required by rules adopted by the Private

1 Sector Prison Industries Oversight Authority under Section 497.0581
 2 [497-051].

3 (b) [(e)] In assigning work program participants [inmates]
 4 to available job training positions in [prison] factories, the
 5 department shall consider each participant's classification and
 6 availability for work. The department shall give priority to work
 7 program participants closest to release from imprisonment or
 8 supervision in making assignment to those job training positions
 9 that provide the most marketable skills [inmate's--needs--and
 10 projected-release-date].

11 SECTION 1.19. Section 497.005, Government Code, is amended
 12 to read as follows:

13 Sec. 497.005. INDUSTRIAL RECEIPTS [~~REVOLVING---ACCOUNT~~].
 14 [~~(a)---The---legislature---may---appropriate---money---to---an---industrial~~
 15 ~~revolving-account-in-the-general-revenue-fund.~~

16 [~~(b)---The-office-shall-administer---the---industrial---revolving~~
 17 ~~account.~~

18 [(e)] The office may use money appropriated to the office in
 19 amounts corresponding to receipts from the sale of articles and
 20 products under this subchapter and Subchapter B [~~in-the---industrial~~
 21 ~~revolving---account)] to purchase real property, erect buildings,
 22 improve facilities, buy equipment and tools, install or replace
 23 equipment, buy industrial raw materials and supplies, and pay for
 24 other necessary expenses for the administration of this subchapter
 25 and Subchapter B.~~

26 [~~(d)---The---office-shall-remit-money-received-from-the-sale-of~~

1 ~~articles and products produced under this subchapter and Subchapter~~
 2 ~~B to the comptroller to be deposited in the industrial revolving~~
 3 ~~account.~~

4 ~~[(e) When the governor and the Legislative Budget Board~~
 5 ~~determine that the industrial revolving account contains money in~~
 6 ~~an amount that exceeds the amount necessary for the administration~~
 7 ~~of this subchapter and Subchapter B, the governor and the~~
 8 ~~Legislative Budget Board shall certify that fact to the~~
 9 ~~comptroller, who shall transfer the excess amount to the~~
 10 ~~unobligated portion of the general revenue fund.~~

11 ~~[(f) Section 493.095, Government Code, does not apply to the~~
 12 ~~industrial revolving account.]~~

13 SECTION 1.20. Section 497.006, Government Code, is amended
 14 to read as follows:

15 Sec. 497.006. CONTRACTS WITH PRIVATE BUSINESS. To encourage
 16 the development and expansion of prison industries, the prison
 17 industries office may enter into necessary contracts related to the
 18 prison industries program. With the approval of the board, the
 19 office may enter into a contract with a private business to conduct
 20 a program on or off property operated by the department. A
 21 contract entered into under this section must comply with the
 22 Private Sector/Prison Industry Enhancement Certification Program
 23 operated by the Bureau of Justice Assistance and authorized by 18
 24 U.S.C. Section 1761. In determining under Section 497.062
 25 [497.051] the number of participants participating [inmates
 26 employed] in private sector prison industries [conditional work]

1 programs, the department shall count the number of work program
2 participants [inmates] participating in a [work] program under a
3 contract entered into under this section. Not more than 500 work
4 program participants [250--inmates] may participate in [work]
5 programs under contracts entered into under this section.

6 SECTION 1.21. Section 497.007, Government Code, is amended
7 to read as follows:

8 Sec. 497.007. GRANTS. The office may accept any grant
9 designated for work program participant [inmate] vocational
10 rehabilitation. The office shall maintain records relating to the
11 receipt and disbursement of grant funds[7] and shall annually
12 report to the board on the administration of grant funds.

13 SECTION 1.22. Section 497.009, Government Code, is amended
14 to read as follows:

15 Sec. 497.009. CERTIFICATION FOR FRANCHISE TAX CREDIT. The
16 department or the office on behalf of the department shall prepare
17 and issue a certification that a corporation requires to establish
18 eligibility for the franchise tax credit for wages paid to work
19 program participants [inmates] or employees who were work program
20 participants [inmates] under Subchapter L, Chapter 171, Tax Code.

21 SECTION 1.23. Subsection (a), Section 497.025, Government
22 Code, is amended to read as follows:

23 (a) An agency of the state that purchases articles and
24 products under this subchapter must requisition the purchase
25 through the General Services Commission except for purchases of
26 articles or products not included in an established contract. The

1 purchase of articles or products not included in an established
2 contract and that do not exceed the dollar limits established under
3 Section 2155.132 may be acquired directly from the office on the
4 agency's obtaining an informal or a formal quotation for the item
5 and issuing a proper purchase order to the office. The General
6 Services Commission and the department shall enter into an
7 agreement to expedite the process by which agencies are required to
8 requisition purchases of articles or products through the
9 commission.

10 SECTION 1.24. Subsection (b), Section 497.051, Government
11 Code, is amended to read as follows:

12 (b) In this subchapter:

13 (1) "Authority"~~[,---"authority"]~~ means the Private
14 Sector Prison Industries Oversight Authority.

15 (2) "Participant" means a participant in a private
16 sector prison industries program.

17 SECTION 1.25. (a) Section 497.052, Government Code, is
18 amended by amending Subsection (a) and adding Subsection (c) to
19 read as follows:

20 (a) The authority is composed of nine members appointed by
21 the governor:

22 (1) one of whom is representative of organized labor;

23 (2) one of whom is representative of employers;

24 (3) one of whom is representative of groups advocating
25 the rights of victims of criminal offenses;

26 (4) one of whom is representative of groups advocating

1 the rights of inmates;

2 (5) one of whom is experienced in the field of
3 vocational rehabilitation; and

4 (6) four [~~one of whom is an employer in the private~~
5 ~~sector prison industries program that is certified as in compliance~~
6 ~~with the federal prison enhancement certification program~~
7 ~~established under 18 U.S.C. Section 1761; and~~

8 [~~7~~ three] of whom are public members.

9 (c) The governor shall appoint as an employer liaison to the
10 authority one person who is an employer in the private sector
11 prison industries program that is certified as in compliance with
12 the federal prison enhancement certification program established
13 under 18 U.S.C. Section 1761. The employer liaison is entitled to
14 attend meetings of the authority and offer advice to the authority
15 from the perspective of a prison industries employer. The employer
16 liaison serves at the pleasure of the governor, is not entitled to
17 vote on any issue considered by the authority, and is entitled to
18 reimbursement for travel expenses in the same manner as is a member
19 of the authority under Section 497.055.

20 (b) On or before January 1, 2000, the governor shall appoint
21 a new public member to the Private Sector Prison Industries
22 Oversight Authority. The member of the authority serving as an
23 employer in the private sector prison industries program ceases to
24 serve as a member of the authority on the appointment of the new
25 public member, and the term of the new public member expires on the
26 date the term of the employer in the industries program would have

1 expired had that member remained on the authority.

2 SECTION 1.26. Subsection (b), Section 497.056, Government
3 Code, is amended to read as follows:

4 (b) The authority shall forward fees collected under this
5 section to the comptroller. The comptroller shall deposit the fees
6 to the credit of an account in the general revenue fund to be known
7 as the private sector prison industries oversight account. The
8 legislature may appropriate funds from the account only for the
9 purpose of paying the costs of the authority and the department in
10 implementing this subchapter, including the cost to the department
11 of paying the reimbursable expenses of authority members under
12 Section 497.055 and the employer liaison as provided by Section
13 497.052(c). At the end of each fiscal year, the comptroller shall
14 transfer the excess funds in the account to the state treasury to
15 the credit of the crime victims compensation fund.

16 SECTION 1.27. Section 497.058, Government Code, is amended
17 to read as follows:

18 Sec. 497.058. PREVAILING WAGE. (a) The authority by rule
19 shall require that participants [~~inmate-employees~~] at each private
20 sector prison industries program be [~~are~~] paid not less than the
21 prevailing wage as computed by the authority, except that the
22 authority may permit employers to pay a participant [~~an-employee~~]
23 the minimum wage for the two-month period beginning on the date
24 participation [~~employment~~] begins.

25 (b) For the purposes of computations required by this
26 section:

1 (1) the prevailing wage is the wage paid by the
2 employer for work of a similar nature in the location in which the
3 work is performed;

4 (2) in the event that the employer has no employees
5 other than those employed under this subchapter performing work of
6 a similar nature within the location, the prevailing wage for work
7 of a similar nature is determined by reference to openings and
8 wages by occupation data collected by the labor market information
9 [~~economic-research-and-analysis~~] department of the Texas Workforce
10 Commission; and

11 (3) the location in which work is performed is the
12 local workforce development area [~~council-of-government-region~~] in
13 which the work is performed.

14 SECTION 1.28. Section 497.0581, Government Code, is amended
15 to read as follows:

16 Sec. 497.0581. PARTICIPANT [~~INMATE~~] CONTRIBUTIONS. The
17 authority by rule shall require a participant [~~an--inmate~~] to
18 contribute a percentage of the wages received by the participant
19 [~~inmate~~] under this subchapter to be deposited in the private
20 sector prison industries oversight account. In establishing the
21 percentage of the wages required to be contributed by participants
22 [~~inmates~~] under this section, the authority shall ensure that the
23 percentage does not place the private sector prison industries
24 programs in the department in noncompliance with the federal prison
25 enhancement certification program established under 18 U.S.C.
26 Section 1761.

1 SECTION 1.29. Section 497.059, Government Code, is amended
2 to read as follows:

3 Sec. 497.059. LIMITING IMPACT ON NON-PRISON INDUSTRY.

4 (a) The authority may not grant initial certification to a private
5 sector prison industries program if the authority determines that
6 the operation of the program would result in the loss of existing
7 jobs provided by the employer in this state.

8 (b) The authority shall adopt rules to determine whether a
9 program would cause the loss of existing jobs provided by the
10 employer in this state.

11 SECTION 1.30. Section 497.060, Government Code, is amended
12 to read as follows:

13 Sec. 497.060. WORKERS' COMPENSATION. The authority by rule
14 shall require private sector prison industries program employers to
15 meet or exceed all federal requirements for providing compensation
16 to participants [inmates] injured while working.

17 SECTION 1.31. Section 497.061, Government Code, is amended
18 to read as follows:

19 Sec. 497.061. RECIDIVISM STUDIES. The authority, with the
20 cooperation of the Criminal Justice Policy Council, shall gather
21 data to determine whether participation in a private sector prison
22 industries program is a factor that reduces recidivism among
23 participants [inmates].

24 SECTION 1.32. Section 497.062, Government Code, is amended
25 to read as follows:

26 Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS. The

1 authority may certify any number of private sector prison
2 industries programs that meet or exceed the requirements of federal
3 law and the rules of the authority, but in no event may the
4 authority permit more than 2,000 participants [~~1,500 inmates to~~
5 ~~participate~~] in the program at any one time.

6 SECTION 1.33. Subsection (d), Section 497.091, Government
7 Code, is amended to read as follows:

8 (d) The department shall make reasonable efforts to [may]
9 contract with nonprofit organizations that provide services to the
10 general public and enhance social welfare and the general
11 well-being of the community to provide inmate labor to those
12 organizations. In entering contracts under this subsection, the
13 department should give preference to nonprofit organizations that
14 will use the inmate labor in a manner that increases the inmates'
15 vocational skills.

16 SECTION 1.34. Subsection (a), Section 497.094, Government
17 Code, is amended to read as follows:

18 (a) The department shall implement a job training program
19 [programs] for each job performed by an inmate [inmates] confined
20 in a facility [facilities] operated by or under contract with the
21 department or a defendant or releasee housed in a facility operated
22 by or under contract with the department and monitor the success of
23 those programs. The department shall also establish a permanent
24 record for each inmate, defendant, or releasee. The record must
25 describe the types of job training provided to the inmate,
26 defendant, or releasee by the department. On release from

1 imprisonment or supervision, the department shall provide the
2 inmate, defendant, or releasee with a copy of the record. The
3 department shall collect information relating to the employment
4 histories of inmates released from the institutional division on
5 parole and mandatory supervision.

6 SECTION 1.35. Section 497.095, Government Code, is amended
7 to read as follows:

8 Sec. 497.095. INMATE'S WORK RECORD. The department
9 [~~institutional-division~~] shall establish a permanent record for
10 each inmate confined, and for each defendant or releasee housed, in
11 a facility operated by or under contract with the department [~~in~~
12 ~~the-division~~] who participates in a department work [~~an--on-the-job~~
13 ~~training~~] program [~~of-the-division~~]. The record must describe the
14 type or types of work performed by the inmate, defendant, or
15 releasee during the person's [~~inmate's~~] confinement or supervision
16 and must contain evaluations of the performance of and [~~inmate's~~]
17 proficiency at tasks assigned and a record of the [~~inmate's~~]
18 attendance at work by the inmate, defendant, or releasee. On
19 release from imprisonment or supervision, the department shall
20 provide the [~~institutional--division,--an~~] inmate, defendant, or
21 releasee with [~~is--entitled--to~~] a copy of a record made by the
22 department [~~division~~] under this section.

23 SECTION 1.36. Subchapter E, Chapter 497, Government Code, is
24 amended by adding Section 497.099 to read as follows:

25 Sec. 497.099. PARTICIPATION IN WORK PROGRAM REQUIRED.

26 (a) The department shall require each inmate and each defendant or

1 releasee housed in a facility operated by or under contract with
2 the department to work in an agricultural, industrial, or other
3 work program to the extent that the inmate, defendant, or releasee
4 is physically and mentally capable of working. The department may
5 waive the work requirement for an inmate, defendant, or releasee as
6 necessary to maintain security or to permit the inmate, defendant,
7 or releasee to participate in rehabilitative programming.

8 (b) The board may develop by rule and the department may
9 administer an incentive pay scale program for inmates required to
10 work in agricultural, industrial, or other work programs. In
11 developing the program, the board shall set pay levels not to
12 unjustly reward inmates, but rather to instruct inmates on the
13 virtues of diligent participation in the workplace. The department
14 shall deposit an amount earned by an inmate under this subsection
15 into the inmate's trust fund and may deduct not more than 80
16 percent of the amount deposited under this subsection for payment
17 of restitution and dependent care owed by the inmate. This
18 subsection does not apply to the compensation of an inmate
19 participating in a Texas Correctional Industries program under
20 Subchapter A or an inmate participating in a private sector prison
21 industries program under Subchapter C.

22 SECTION 1.37. (a) Subsection (a), Section 498.003,
23 Government Code, is amended to read as follows:

24 (a) Good conduct time applies only to eligibility for parole
25 or mandatory supervision as provided by Section 508.145 or 508.147
26 and does not otherwise affect an inmate's term. Good conduct time

1 is a privilege and not a right. Regardless of the classification
2 of an inmate, the department may grant good conduct time to the
3 inmate only if the department finds that the inmate is actively
4 engaged in an agricultural, vocational, or educational endeavor,
5 [or] in an industrial program or other work program, or in a
6 treatment program, unless the department finds that the inmate is
7 not capable of participating in such a program or [an] endeavor.

8 (b) Subsection (f), Section 498.003, Government Code, is
9 repealed.

10 (c) The change in law to Section 498.003, Government Code,
11 made by this section applies to an inmate serving a sentence in the
12 Texas Department of Criminal Justice on or after the effective date
13 of this Act, regardless of whether the inmate committed the offense
14 for which the inmate is serving the sentence before, on, or after
15 the effective date of this Act.

16 SECTION 1.38. (a) Subchapter A, Chapter 501, Government
17 Code, is amended by adding Section 501.0081 to read as follows:

18 Sec. 501.0081. DISPUTE RESOLUTION: TIME-SERVED CREDITS.

19 (a) The department shall develop a system that allows resolution
20 of a complaint by an inmate who alleges that time credited on the
21 inmate's sentence is in error and does not accurately reflect the
22 amount of time-served credit to which the inmate is entitled.

23 (b) Except as provided by Subsection (c), an inmate may not
24 in an application for a writ of habeas corpus under Article 11.07,
25 Code of Criminal Procedure, raise as a claim a time-served credit
26 error until:

1 (1) the inmate receives a written decision issued by
2 the highest authority provided for in the resolution system; or

3 (2) if the inmate has not received a written decision
4 described by Subdivision (1), the 180th day after the date on which
5 under the resolution system the inmate first alleges the
6 time-served credit error.

7 (c) Subsection (b) does not apply to an inmate who,
8 according to the department's computations, is within 180 days of
9 the inmate's presumptive parole date, date of release on mandatory
10 supervision, or date of discharge. An inmate described by this
11 subsection may raise a claim of time-served credit error by filing
12 a complaint under the system described by Subsection (a) or, if an
13 application for a writ of habeas corpus is not otherwise barred, by
14 raising the claim in that application.

15 (b) The change in law made by this section applies only to a
16 claim made on or after January 1, 2000, that alleges a time-served
17 credit error, as described by Section 501.0081, Government Code, as
18 added by this section. A claim made before January 1, 2000, that
19 alleges a time-served credit error is covered by the law in effect
20 when the claim is made, and the former law is continued in effect
21 for this purpose.

22 SECTION 1.39. Section 509.011, Government Code, is amended
23 by adding Subsections (g) and (h) to read as follows:

24 (g) If the Texas Department of Criminal Justice determines
25 that at the end of a biennium a department maintains in reserve an
26 amount greater than six months' basic supervision operating costs

1 for the department, the Texas Department of Criminal Justice in the
2 succeeding biennium may reduce the amount of per capita and formula
3 funding provided under Subsection (a) so that in the succeeding
4 biennium the department's reserves do not exceed six months' basic
5 supervision operating costs. The Texas Department of Criminal
6 Justice may adopt policies and standards permitting a department to
7 maintain reserves in an amount greater than otherwise permitted by
8 this subsection as necessary to cover emergency costs or implement
9 new programs with the approval of the Texas Department of Criminal
10 Justice. The Texas Department of Criminal Justice may distribute
11 unallocated per capita or formula funds to provide supplemental
12 funds to individual departments to further the purposes of this
13 chapter.

14 (h) A community supervision and corrections department at
15 any time may transfer to the Texas Department of Criminal Justice
16 any unencumbered state funds held by the department. The Texas
17 Department of Criminal Justice may distribute funds received from a
18 community supervision and corrections department under this
19 subsection to provide supplemental funds to individual departments
20 to further the purposes of this chapter.

21 SECTION 1.40. Chapter 509, Government Code, is amended by
22 adding Section 509.015 to read as follows:

23 Sec. 509.015. FEASIBILITY STUDY: COMMUNITY JUSTICE PLANS.

24 (a) The division shall conduct a study to determine whether the
25 documentation a community justice council is required to provide to
26 the division as a part of the submission of a community justice